


(Original Signature of Member)

118TH CONGRESS

1ST SESSION

H. R. ____

To improve services provided by pharmacy benefit managers.

IN THE HOUSE OF REPRESENTATIVES

Mrs. MILLER-MEEKS introduced the following bill; which was
referred to the Committee on

(insert committee name here)

A BILL

To improve services provided by pharmacy benefit managers.

1 *Be it enacted by the Senate and House of Representatives of the*
2 *United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Delinking Revenue from Unfair
5 Gouging Act” or the “DRUG Act”.

6 **SEC. 2. IMPROVING PHARMACY BENEFIT MANAGER**
7 **SERVICES.**

8 (a) PUBLIC HEALTH SERVICE ACT.—Part D of title

1 XXVII of the Public Health Service Act (42 U.S.C. 300gg–111
2 et seq.) is amended by adding at the end the following:

3 **“SEC. 2799A–11. IMPROVING PHARMACY BENEFIT**
4 **MANAGER SERVICES.**

5 “(a) GENERAL.—For plan years beginning on or after January
6 1, 2026, except as provided in subsection (b), a pharmacy benefit
7 manager shall derive no remuneration from any entity for services, benefit
8 administration, or any other activities related to prescription drugs.

9 “(b) EXCEPTION FOR BONA FIDE SERVICE FEES.—

10 “(1) IN GENERAL.—A pharmacy benefit manager may
11 charge an entity a bona fide service fee for the provision of
12 services to such entity if such fee is set forth in an agreement
13 between the pharmacy benefit manager and such entity, and the
14 amount of any bona fide service fee—

15 “(A) shall be a flat dollar amount;

16 “(B) shall not be directly or indirectly based on, or
17 contingent upon—

18 “(i) a drug price (such as wholesale
19 acquisition cost) or drug benchmark price (such as
20 average wholesale price);

21 “(ii) the amount of discounts, rebates, fees,
22 or other direct or indirect remuneration with respect
23 to prescription drugs prescribed to the participants,
24 beneficiaries, or enrollees in the group health plan

1 or coverage involved; or

2 “(iii) any other amounts prohibited by the
3 Secretary, the Secretary of Labor, and the Secretary
4 of the Treasury;

5 “(2) DEFINITIONS.—In this section—

6 “(A) the term ‘bona fide service fee’ means
7 fair market value for a bona fide, itemized service actually
8 performed on behalf of an entity, that the entity would otherwise
9 perform (or contract for) in the absence of the service
10 arrangement and that are not passed on in whole or in part to a
11 client or customer, whether or not the entity takes title to the
12 drug; and

13 “(B) the term ‘pharmacy benefit manager’ means
14 any person, business, or other entity such as a third-
15 party administrator, regardless of whether it identifies
16 itself as a pharmacy benefit manager, that, either directly
17 or through an intermediary (including an affiliate,
18 subsidiary, parent, or agent) or an arrangement with a third
19 party—

20 “(i) acts as a price negotiator or group
21 purchaser for prescription drugs on behalf of a
22 group health plan or health insurance issuer
23 offering group or individual health insurance
24 coverage; or

“(ii) manages or administers the prescription drug benefits provided by a group health plan or health insurance issuer offering group or individual health insurance coverage, including the processing and payment of claims for prescription drugs, arranging alternative access to or funding for prescription drugs, the performance of drug utilization review, the processing of drug prior authorization requests, the adjudication of appeals or grievances related to the prescription drug benefit, contracting with network pharmacies, controlling the cost of covered prescription drugs, or the provision of related services.

“(c) ACCOUNTABILITY AND CONDUCT.—

“(1) IN GENERAL.—A pharmacy benefit manager shall not—

“(A) charge a group health plan or health insurance issuer offering group or individual health insurance coverage a different amount for a prescription drug’s ingredient cost or dispensing fee as compared to the amount the pharmacy benefit manager reimburses a pharmacy for the prescription drug’s ingredient cost or dispensing fee;

“(B) reimburse a network pharmacy or

1 pharmacist in an amount less than the amount the pharmacy
2 benefit manager would reimburse a network pharmacy that
3 is owned, controlled by, or affiliated with the pharmacy
4 benefit manager for dispensing the same drug or for
5 providing the same pharmacist services; or

6 “(C) directly or indirectly engage in steering (as
7 defined in paragraph (2)) to a pharmacy that is owned,
8 controlled by, or affiliated with the pharmacy benefit
9 manager.

10 “(2) STEERING.—In paragraph (1), the term ‘steering’
11 with respect to a pharmacy benefit man-ager includes—

12 “(A) providing or implementing a benefit design
13 that encourages a participant, beneficiary, or enrollee to
14 utilize a pharmacy that is owned, controlled by, or affiliated
15 with the pharmacy benefit manager, if such design
16 increases costs for the plan or the a participant,
17 beneficiary, or enrollee, including requiring a participant,
18 beneficiary, or enrollee to pay higher out-of-pocket costs
19 for a prescription if the participant, beneficiary, or enrollee
20 chooses not to use a pharmacy owned, controlled by, or
21 affiliated with the pharmacy benefit manager;

22 “(B) requiring a participant, beneficiary, or
23 enrollee to use only a pharmacy that is owned,
24 controlled by, or affiliated with the pharmacy benefit

1 manager;

2 “(C) retaliating, making further attempts to
3 influence a participant, beneficiary, or enrollee, or
4 treating a participant, beneficiary, or enrollee or a
5 participant, beneficiary, or enrollee’s claim any differently
6 if a participant, beneficiary, or enrollee chooses to use a
7 pharmacy that is not owned, controlled by, or affiliated
8 with the pharmacy benefit manager; or

9 “(D) any other activities as defined by the
10 Secretary, the Secretary of Labor, and the Secretary of the
11 Treasury.

12 “(d) ENFORCEMENT.—

13 “(1) IN GENERAL.—The Secretary, in consultation with
14 the Secretary of Labor and the Secretary of the Treasury, shall
15 enforce this section.

16 “(2) DISGORGEMENT. The pharmacy benefit manager shall
17 disgorge to a group health plan or health insurance issuer offering
18 group or individual health insurance coverage any payment,
19 remuneration, or other amount received by the pharmacy benefit
20 manager or an affiliate of such pharmacy benefit manager in
21 violation of paragraph (a) or the agreement entered into with such
22 plan or issuer for bona fide service fees.

23 “(3) PENALTIES.—A pharmacy benefit manager that
24 violates subsection (a), (b), or (c) shall be subject to a civil

1 monetary penalty in the amount of \$10,000 for each day during
2 which such violation continues.”

3 “(4) PROCEDURE.—The provisions of section 1128A of
4 the Social Security Act, other than subsections (a) and (b) and
5 the first sentence of subsection (c)(1) of such section shall
6 apply to civil monetary penalties under this subsection in the same
7 manner as such provisions apply to a penalty or proceeding under
8 section 1128A of the Social Security Act.

9 “(e) REGULATIONS.—Notwithstanding any other provision of
10 law, the Secretary shall initially implement this section through
11 interim final regulations.

12 “(f) RULES OF CONSTRUCTION.—

13 “(1) Nothing in this section shall be construed as
14 prohibiting payments related to reimbursement for ingredient costs
15 to entities that acquire prescription drugs or pharmacy dispensing
16 fees.

17 “(2) Nothing in this section shall be construed to prohibit
18 rebates, discounts, or other price concessions from being fully
19 passed through to a group health plan or health insurance issuer
20 offering group or individual health insurance coverage to lower
21 net costs for prescription drugs.

22 “(b) ERISA.—

23 “(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I
24 of the Employee Retirement Income Security Act of 1974 (29 U.S.C.

1 1185 et seq.) is amended by inserting after section 725 the following:

2 **“SEC. 726. IMPROVING PHARMACY BENEFIT**

3 **MANAGER SERVICES.**

4 “(a) IN GENERAL.—For plan years beginning on or after
5 January 1, 2026, except as provided in subsection (b), a pharmacy
6 benefit manager shall derive no remuneration from any entity for services,
7 benefit administration, or any other activities related to prescription drugs.

8 **“(b) EXCEPTION FOR BONA FIDE SERVICE FEES.—**

9 “(1) IN GENERAL.—A pharmacy benefit manager may
10 charge an entity a bona fide service fee for the provision of
11 services to such entity if such fee is set forth in an agreement
12 between the pharmacy benefit manager and such entity and the
13 amount of any bona fide service fee—

14 “(A) shall be a flat dollar amount;

15 “(B) shall not be directly or indirectly based on, or
16 contingent upon—

17 “(i) a drug price (such as wholesale
18 acquisition cost) or drug benchmark price (such as
19 average wholesale price);

20 “(ii) the amount of discounts, rebates, fees,
21 or other direct or indirect remuneration with respect
22 to prescription drugs prescribed to the participants,
23 beneficiaries, or enrollees in the group health plan
24 or coverage involved; or

1 “(iii) any other amounts prohibited by the
2 Secretary, the Secretary of Labor, and the
3 Secretary of the Treasury.”

4 “(2) DEFINITIONS.—In this section—

5 “(A) the term ‘bona fide service fee’ means fair
6 market value for a bona fide, itemized service actually
7 performed on behalf of an entity, that would otherwise
8 perform (or contract for) in the absence of the service
9 arrangement and that are not passed on in whole or in part
10 to a client or customer, whether or not the entity takes title
11 to the drug;—

12 “(B) the term ‘pharmacy benefit manager’ means
13 any person, business, or other entity such as a third-
14 party administrator, regardless of whether it identifies
15 itself as a pharmacy benefit manager, that, either directly
16 or through an intermediary (including an affiliate,
17 subsidiary, or agent) or an arrangement with a third party—

18 “(i) acts as a price negotiator for
19 prescription drugs on behalf of a group health plan
20 or health insurance issuer offering group health
21 insurance coverage; or

22 “(ii) manages or administers the
23 prescription drug benefits provided by a group health
24 plan or health insurance issuer offering group

1 health insurance coverage, including the processing
2 and payment of claims for prescription drugs,
3 arranging alternative access to or funding for
4 prescription drugs, the performance of drug
5 utilization review, the processing of drug prior
6 authorization requests, the adjudication of appeals
7 or grievances related to the prescription drug
8 benefit, contracting with network pharmacies,
9 controlling the cost of covered prescription drugs, or
10 the provision of related services.

11 “(c) ACCOUNTABILITY AND CONDUCT.—

12 “(1) IN GENERAL.—A pharmacy benefit manager shall
13 not—

14 “(A) charge a group health plan or health
15 insurance issuer offering group health insurance coverage
16 a different amount for a prescription drug’s ingredient cost
17 or dispensing fee as compared to the amount the pharmacy
18 benefit manager reimburses a pharmacy for the
19 prescription drug’s ingredient cost or dispensing fee;

20 “(B) reimburse a network pharmacy or
21 pharmacist in an amount less than the amount the pharmacy
22 benefit manager would reimburse a network pharmacy that
23 is owned, controlled by, or affiliated with the pharmacy
24 benefit manager for dispensing the same drug or for

1 providing the same pharmacist services; or

2 “(C) directly or indirectly engage in steering (as
3 defined in paragraph (2)) to a pharmacy that is owned,
4 controlled by, or affiliated with the pharmacy benefit
5 manager.

6 “(2) STEERING.—In paragraph (1), the term ‘steering’
7 with respect to a pharmacy benefit manager includes—

8 “(A) providing or implementing a benefit plan
9 design that encourages a participant or beneficiary to
10 utilize a pharmacy that is owned, controlled by, or
11 affiliated with the pharmacy benefit manager, if such
12 plan design increases costs for the plan or the participant
13 or beneficiary, including requiring a participant or
14 beneficiary to pay higher out-of-pocket costs for a
15 prescription if the participant or beneficiary chooses
16 not to use a pharmacy owned, controlled by, or affiliated
17 with the pharmacy benefit manager;

18 “(B) requiring a participant or beneficiary to use
19 only a pharmacy that is owned, controlled by, or
20 affiliated with the pharmacy benefit manager;

21 “(C) retaliating, making further attempts to
22 influence a participant or beneficiary, or treating a
23 participant or beneficiary or a participant or beneficiary’s
24 claim any differently if a participant or beneficiary chooses

1 to use a pharmacy that is not owned, controlled by, or
2 affiliated with the pharmacy benefit manager; or

3 “(D) any other activities as defined by the
4 Secretary, the Secretary of Health and Human Services,
5 and the Secretary of the Treasury.

6 “(d) ENFORCEMENT.—

7 “(1) IN GENERAL.—The Secretary, in consultation with
8 the Secretary of Health and Human Services and the Secretary of
9 the Treasury, shall enforce this section.

10 “(2) DISGORGEMENT. The pharmacy benefit manager shall
11 disgorge to a group health plan or health insurance issuer offering
12 group or individual health insurance coverage any payment,
13 remuneration, or other amount received by the pharmacy benefit
14 manager or an affiliate of such pharmacy benefit manager in
15 violation of paragraph (a) or the agreement entered into with such
16 plan or issuer for bona fide service fees.

17 “(3) PENALTIES.—A pharmacy benefit manager that
18 violates subsection (a), (b), or (c) shall be subject to a civil
19 monetary penalty in the amount of \$10,000 for each day during
20 which such violation continues.

21 “(4) PROCEDURE.—The provisions of section 1128A of
22 the Social Security Act, other than subsections (a) and (b) and
23 the first sentence of subsection (c)(1) of such section shall
24 apply to civil monetary penalties under this subsection in the same

1 manner as such provisions apply to a penalty or proceeding under
2 section 1128A of the Social Security Act.

3 “(e) REGULATIONS.—Notwithstanding any other provision of law,
4 the Secretary shall initially implement this section through interim final
5 regulations.

6 “(f) RULES OF CONSTRUCTION.—

7 “(1) Nothing in this section shall be construed as
8 prohibiting payments related to reimbursement for ingredient costs
9 to entities that acquire prescription drugs or pharmacy dispensing
10 fees.

11 “(2) Nothing in this section shall be construed to prohibit
12 rebates, discounts, or other price concessions from being fully
13 passed through to a group health plan or health insurance issuer
14 offering group or individual health insurance coverage to lower
15 net costs for prescription drugs.”.

16 (2) CLERICAL AMENDMENT.—The table of contents in
17 section 1 of the Employee Retirement Income Security Act of
18 1974 (29 U.S.C. 1001 et seq.) is amended by inserting after the
19 item relating to section 725 the following new item:

20 “Sec. 726. Improving pharmacy benefit manager services.”.

21 (c) INTERNAL REVENUE CODE OF 1986.—Sub-chapter B of
22 chapter 100 of the Internal Revenue Code of 1986 is amended by adding
23 at the end the following:

24

1 **“SEC. 9826. IMPROVING PHARMACY BENEFIT**
2 **MANAGER SERVICES.**

3 “(a) IN GENERAL.—For plan years beginning on or after January
4 1, 2026, except as provided in subsection (b), a pharmacy benefit
5 manager shall derive no remuneration from any entity for services, benefit
6 administration, or any other activities related to prescription drugs.

7 “(b) EXCEPTION FOR BONA FIDE SERVICES.—

8 “(1) IN GENERAL.—A pharmacy benefit manager may
9 charge an entity a bona fide service fee for the provision of
10 services to such entity if such fee is set forth in an agreement
11 between the pharmacy benefit manager and such entity, and the
12 amount of any bona fide service fee—

13 “(A) shall be a flat dollar amount;

14 “(B) shall not be directly or indirectly based on, or
15 contingent upon—

16 “(i) a drug price (such as wholesale
17 acquisition cost) or drug benchmark price (such as
18 average wholesale price);

19 “(ii) the amount of discounts, rebates, fees,
20 or other direct or indirect remuneration with respect
21 to prescription drugs prescribed to the participants,
22 beneficiaries, or enrollees in the group health plan
23 or coverage involved; or

24 “(iii) any other amounts prohibited by the

1 Secretary, the Secretary of Labor, and the Secretary
2 of the Treasury;”

3 “(2) DEFINITIONS.—In this section—

4 “(A) the term ‘bona fide service fee’ means fair
5 market value for a bona fide, itemized service actually
6 performed on behalf of an entity, that the entity would
7 otherwise perform (or contract for) in the absence of the
8 arrangement and that are not passed on in whole or in part
9 to a client or customer, whether or not the entity takes title
10 to the drug; and —

11 “(B) the term ‘pharmacy benefit manager’ means
12 any person, business, or other entity such as a third-
13 party administrator, regardless of whether it identifies
14 itself as a pharmacy benefit manager, that, either directly
15 or through an intermediary (including an affiliate, or agent)
16 or an arrangement with a third party—

17 “(i) acts as a price negotiator for
18 prescription drugs on behalf of a group health plan;
19 or

20 “(ii) manages or administers the
21 prescription drug benefits provided by a group health
22 plan, including the processing and payment of
23 claims for prescription drugs, arranging alternative
24 access to or funding for prescription drugs, the

1 performance of drug utilization review, the
2 processing of drug prior authorization requests, the
3 adjudication of appeals or grievances related to the
4 prescription drug benefit, contracting with network
5 pharmacies, controlling the cost of covered
6 prescription drugs, or the provision of related
7 services.

8 “(c) ACCOUNTABILITY AND CONDUCT.—

9 “(1) IN GENERAL.—A pharmacy benefit manager shall
10 not—

11 “(A) charge a group health plan or health
12 insurance issuer offering group health insurance coverage
13 a different amount for a prescription drug’s ingredient cost
14 or dispensing fee as compared to the amount the pharmacy
15 benefit manager reimburses a pharmacy for the
16 prescription drug’s ingredient cost or dispensing fee;

17 “(B) reimburse a network pharmacy or
18 pharmacist in an amount less than the amount the pharmacy
19 benefit manager would reimburse a network pharmacy that
20 is owned, controlled by, or affiliated with the pharmacy
21 benefit manager for dispensing the same drug or for
22 providing the same pharmacist services; or

23 “(C) directly or indirectly engage in steering (as
24 defined in paragraph (2)) to a pharmacy that is owned,

1 controlled by, or affiliated with the pharmacy benefit
2 manager.

3 “(2) STEERING.—In paragraph (1), the term ‘steering’
4 with respect to a pharmacy benefit manager includes—

5 “(A) providing or implementing a benefit design
6 that encourages a participant or beneficiary to utilize a
7 pharmacy that is owned, controlled by, or affiliated with
8 the pharmacy benefit manager, if such benefit design
9 increases costs for the plan or the participant or
10 beneficiary, including requiring a participant or beneficiary
11 to pay higher out-of-pocket costs for a prescription if the
12 participant or beneficiary chooses not to use a
13 pharmacy owned, controlled by, or affiliated with the
14 pharmacy benefit manager;

15 “(B) requiring an enrollee to use only a pharmacy
16 that is owned, controlled by, or affiliated with the pharmacy
17 benefit manager;

18 “(C) retaliating, making further attempts to
19 influence a participant or beneficiary, or treating a
20 participant or beneficiary or a participant or beneficiary’s
21 claim any differently if a participant or beneficiary chooses
22 to use a pharmacy that is not owned, controlled by, or
23 affiliated with the pharmacy benefit manager; or

24 “(D) any other activities as defined by the

1 Secretary, the Secretary of Labor, and the Secretary of
2 Health and Human Service.

3 “(d) ENFORCEMENT.—

4 “(1) IN GENERAL.—The Secretary, in consultation with
5 the Secretary of Labor and the Secretary of Health and Human
6 Services, shall enforce this section.

7 “(2) DISGORGEMENT. The pharmacy benefit manager shall
8 disgorge to a group health plan or health insurance issuer offering
9 group or individual health insurance coverage any payment,
10 remuneration, or other amount received by the pharmacy benefit
11 manager or an affiliate of such pharmacy benefit manager in
12 violation of paragraph (a) or the agreement entered into with such
13 plan or issuer for bona fide service fees.

14 “(3) PENALTIES.—A pharmacy benefit manager that
15 violates subsection (a), (b), or (c) shall be subject to a civil
16 monetary penalty in the amount of \$10,000 for each day during
17 which such violation continues.

18 “(4) PROCEDURE.—The provisions of section 1128A of
19 the Social Security Act, other than subsections (a) and (b) and
20 the first sentence of subsection (c)(1) of such section shall
21 apply to civil monetary penalties under this subsection in the same
22 manner as such provisions apply to a penalty or proceeding under
23 section 1128A of the Social Security Act.

24 “(e) REGULATIONS.—Notwithstanding any other provision of law,

1 the Secretary shall initially implement the amendments made by this Act
2 through interim final regulations.’

3 “(f) RULES OF CONSTRUCTION.—

4 “(1) Nothing in this section shall be construed as
5 prohibiting payments related to reimbursement for ingredient costs
6 to entities that acquire prescription drugs or pharmacy dispensing
7 fees.

8 “(2) Nothing in this section shall be construed to prohibit
9 rebates, discounts, or other price concessions from being fully
10 passed through to a group health plan or health insurance issuer
11 offering group or individual health insurance coverage to lower
12 net costs for prescription drugs.”.

13 (d) FEDERAL EMPLOYEES HEALTH BENEFITS ACT.—
14 Chapter 89 of subpart G of part III of title 5 of the United States
15 Code is amended by adding at the end following:

16 **“SEC. 8915. IMPROVING PHARMACY BENEFIT**
17 **MANAGER SERVICES.**

18 “(a) IN GENERAL.—For plan years beginning on or after January
19 1, 2026, except as provided in subsection (b), a pharmacy benefit
20 manager shall derive no remuneration from any entity for services, benefit
21 administration, or any other activities related to prescription drugs.

22 “(b) EXCEPTION FOR BONA FIDE SERVICES.—

23 “(1) IN GENERAL.—A pharmacy benefit manager may
24 charge an entity a bona fide service fee for the provision of

1 services to such entity if such fee is set forth in an agreement
2 between the pharmacy benefit manager and such entity, and

3 “(2) the amount of any bona fide service fee—

4 “(A) shall be a flat dollar amount;

5 “(B) shall not be directly or indirectly based on, or
6 contingent upon—

7 “(i) a drug price (such as wholesale acquisition
8 cost) or drug benchmark price (such as average wholesale
9 price);

10 “(ii) the amount of discounts, rebates, fees, or other
11 direct or indirect remuneration with respect to prescription
12 drugs prescribed to the participants, beneficiaries, or
13 enrollees in the group health plan or coverage involved; or

14 “(iii) any other amounts prohibited by the Office
15 of Personnel Management;

16 “(2) DEFINITIONS.—In this section—

17 “(A) the term ‘bona fide service fee’ means fair
18 market value for a bona fide, itemized service actually
19 performed on behalf of an entity, that the entity would
20 otherwise perform (or contract for) in the absence of the
21 arrangement and that are not passed on in whole or in part
22 to a client or customer, whether or not the entity takes title
23 to the drug; and

24 “(B) the term ‘pharmacy benefit manager’ means

1 any person, business, or other entity such as a third-
2 party administrator, regardless of whether it identifies
3 itself as a pharmacy benefit manager, that, either directly
4 or through an intermediary (including an affiliate, or agent)
5 or an arrangement with a third party—

6 “(i) acts as a price negotiator for
7 prescription drugs on behalf of a health benefits plan
8 or carrier; or

9 “(ii) manages or administers the
10 prescription drug benefits provided by a health
11 benefits plan or carrier including the processing and
12 payment of claims for prescription drugs,
13 arranging alternative access to or funding for
14 prescription drugs, the performance of drug
15 utilization review, the processing of drug prior
16 authorization requests, the adjudication of appeals
17 or grievances related to the prescription drug benefit,
18 contracting with network pharmacies, controlling the
19 cost of covered prescription drugs, or the provision
20 of related services.

21 “(c) ACCOUNTABILITY AND CONDUCT.—

22 “(1) IN GENERAL.—A pharmacy benefit manager shall
23 not—

24 “(A) charge a health benefits plan or carrier

1 different amount for a prescription drug's ingredient cost or
2 dispensing fee as compared to the amount the pharmacy
3 benefit manager reimburses a pharmacy for the
4 prescription drug's ingredient cost or dispensing fee;

5 “(B) reimburse a network pharmacy or
6 pharmacist in an amount less than the amount the pharmacy
7 benefit manager would reimburse a network pharmacy that
8 is owned, controlled by, or affiliated with the pharmacy
9 benefit manager for dispensing the same drug or for
10 providing the same pharmacist services; or

11 “(C) directly or indirectly engage in steering (as
12 defined in paragraph (2)) to a pharmacy that is owned,
13 controlled by, or affiliated with the pharmacy benefit
14 manager.

15 “(2) STEERING.—In paragraph (1), the term ‘steering’
16 with respect to a pharmacy benefit manager includes—

17 “(A) providing or implementing a benefit design
18 that encourages a participant or beneficiary to utilize a
19 pharmacy that is owned, controlled by, or affiliated with
20 the pharmacy benefit manager, if such benefit design
21 increases costs for the plan or the participant or
22 beneficiary, including requiring a participant or beneficiary
23 to pay higher out-of-pocket costs for a prescription if the
24 participant or beneficiary chooses not to use a

1 pharmacy owned, controlled by, or affiliated with the
2 pharmacy benefit manager;

3 “(B) requiring an enrollee to use only a pharmacy
4 that is owned, controlled by, or affiliated with the pharmacy
5 benefit manager; or

6 “(C) retaliating, making further attempts to
7 influence a participant or beneficiary, or treating a
8 participant or beneficiary or a participant or beneficiary’s
9 claim any differently if a participant or beneficiary chooses
10 to use a pharmacy that is not owned, controlled by, or
11 affiliated with the pharmacy benefit manager; or

12 “(D) any other activities as defined by the Office
13 of Personnel Management.

14 “(d) ENFORCEMENT.—

15 “(1) IN GENERAL.—The Office of Personnel Management
16 shall enforce this section.

17 “(2) DISGORGEMENT.—The pharmacy benefit manager
18 shall disgorge to a health benefits plan or carrier any payment,
19 remuneration, or other amount received by the pharmacy benefit
20 manager or an affiliate of such pharmacy benefit manager in
21 violation of paragraph (a) or the agreement entered into with such
22 plan or carrier for bona fide service fees.

23 “(3) PENALTIES.—A pharmacy benefit manager that
24 violates subsection (a), (b), or (c) shall be subject to a civil

1 monetary penalty in the amount of \$10,000 for each day during
2 which such violation continues.

3 “(4) PROCEDURE.—The provisions of section 1128A of
4 the Social Security Act, other than subsections (a) and (b) and
5 the first sentence of sub-section c)(1) of such section shall
6 apply to civil monetary penalties under this subsection in the same
7 manner as such provisions apply to a penalty or proceeding under
8 section 1128A of the Social Security Act, except that for the purpose
9 of this paragraph the “Office of Personnel Management” is
10 substituted wherever the term “Secretary” is used in section 1128A.

11 “(e) REGULATIONS.—Notwithstanding any other provision of law,
12 the Director shall initially implement the amendments made by this Act
13 through interim final regulations.

14 “(f) RULES OF CONSTRUCTION.—

15 “(1) Nothing in this section shall be construed as
16 prohibiting payments related to reimbursement for ingredient costs
17 to entities that acquire prescription drugs or pharmacy dispensing
18 fees.

19 “(2) Nothing in this section shall be construed to prohibit
20 rebates, discounts, or other price concessions from being fully
21 passed through to a health benefits plan or carrier to lower net costs
22 for prescription drugs.”.